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NO. 08-1108

Supreme Court, U.S.
FILED
MAY 14 2009
OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

DAVID S. HAEG, Petitioner

V.

STATE OF ALASKA, Respondent

ON PETITION FOR WRIT OF CERTIORARI TO THE ALASKA COURT OF APPEALS

PETITION FOR REHEARING

DAVID S. HAEG
Pro Se

P.O. Box 123
Soldotna, AK 99669
Telephone: (907) 262-9249
Fax: (907) 262-8867

FACTS

Rule 13.1 required Haeg to file petition No. 08-1108 by March 1, 2009. See petition No. 08-1108. Haeg filed the petition on February 23, 2009 – 7 days before the deadline.

On February 23, 2009 the Alaska Supreme Court denied rehearing of Haeg's arbitration appeal – which concerns the same issues as No. 08-1108.

ARGUMENT

It's of overwhelming importance that the arbitration petition be considered in deciding petition No. 08-1108. As the Alaska Supreme Court's final decision was made the same day 08-1108 was filed it was impossible to combine the two petitions under Rule 12.4 so the arbitration evidence could support acceptance of petition No. 08-1108.

The arbitration petition provides irrefutable proof that Haeg's attorney Cole affirmatively gave Haeg false counsel that allowed the State to violate many basic constitutional rights – which severely harmed Haeg.

This false counsel allowed the State, unopposed, to:

1. Falsify evidence locations in order to support the charges against Haeg.
2. Use false affidavits to seize Haeg's property.
3. Not provide a hearing to contest the illegal seizure or bond the property out after they seized Haeg's property, used as primary means to provide a livelihood.
4. Promise a plea agreement to get Haeg to give a statement and to give up guiding for a year; then, when the guiding year was past and statement given, break the plea agreement and use Haeg's statement against him at trial.

In addition, the arbitration petition provides evidence that Cole and his witness intentionally gave false sworn testimony to deny what happened to Haeg.

One example of Cole's representation of Haeg, documented in the arbitration petition:

While Haeg was paying him for his counsel, Cole told Haeg over and over, month after month, there was no way to contest the State's seizure and deprivation of Haeg's airplane and other property that Haeg and his wife needed to provide a livelihood – no way to even bond the property out. Tape recordings of Cole while he was Haeg's attorney prove this. See arbitration petition transcripts.

Cole's testimony at arbitration was the same: Haeg had no right to a postseizure hearing and that "Alaska law" prevented Haeg from getting his airplane or other property back. Cole's further testified, *"I was concerned about his mental health. I told [Mrs. Haeg] I thought he was goanna commit suicide."* See arbitration transcripts.

Upon cross-examination of Cole by Haeg, it was proved "Alaska law" not only allowed a postseizure hearing but *required one "within days if not hours"* if the seized property was used to provide a livelihood. In addition, "Alaska law" irrefutably allowed property, used to provide a livelihood, to be bonded out. See arbitration transcripts.

Cole's response after he was forced to admit Haeg had a right to a prompt postseizure hearing and to bond out his property so he and his wife could have continued making a livelihood: *"David [Haeg], the time to make that decision was in April – you were almost comatose because you were so depressed about the State walking in and taking all this stuff."* See arbitration transcripts.

The people following this case tell Haeg that *Cole, knowing full well the immense pressure the loss of business property put on Haeg, thought it was better to have Haeg commit suicide then to tell Haeg the law allowed Haeg to get his property back so he and his wife could continue to provide for their 2 daughters - when Haeg had hired Cole to tell him of the law that would protect his livelihood.*

At this same time Jackie Haeg was prescribed tranquilizers and anti-depressants in order to cope with losing everything she had worked her entire life for.

This doesn't consider that Cole told Haeg the false affidavits, used to seize Haeg's property, "didn't matter" and no hearing was available to protest – when the affidavits falsified all evidence locations to Haeg's guiding area to support both the seizure of the property and the case against Haeg. That Cole had Haeg give a statement and year of guiding for a plea agreement, let the State break the plea agreement after the statement and guide year was given, and afterward let the State use the statement against Haeg. That Cole refused to obey a subpoena to Haeg's sentencing in order to inform the court of all he had Haeg do for a plea agreement the State broke uncontested by Cole – where Haeg was sentenced to 5 more years without a guide license (without credit for the year already given) when the plea agreement the State broke only required one year. *Or that Cole and the prosecutor now testify under oath Haeg's statement wasn't used – when every information, written and signed by the very prosecutor claiming otherwise, irrefutably proves it was used.*

The information Haeg went to trial on reads, ***"DAVID S. HAEG was interviewed in Anchorage on 6/11/04 and a summary...follows:"*** *- followed by 5 pages*

of Haeg's statement as probable cause for the charges against Haeg. See arbitration petition and No. 08-1108.

How is it possible that both Cole and the State's attorney can falsely claim under oath, without consequences, that Haeg's statement was never used?

People tell Haeg this is why justice must be had at any cost – professionals in such positions of trust cannot be allowed to conspire and do something so evil, incomprehensible, and damaging to the ignorant and trusting people hiring them.

Others believe the reason no one has helped is because it's too shocking to admit Haeg's own attorneys were an integral part of the injustice – it's better to claim Haeg is mistaken. *After 5 years of proceedings, countless witnesses, and a mountain of evidence there is no mistake.*

Senator Ted Stevens's case was recently reversed for nearly identical prosecutorial misconduct. Except the federal prosecutors misconduct was relatively minor when compared to the State prosecutors misconduct in Haeg's case. *"Mr. Stevens deserved a fair trial and the full protection of the law. He got neither here, and that's a larger scandal than anything he was charged with."* The argument was if this could happen to a long sitting and wealthy senator what can happen to the "little guy"? Haeg's case makes this crystal clear - *what happens is not only is the prosecutorial misconduct far more egregious – the "little guys" own attorneys help make it happen and help keep it covered up – and no one steps up to correct the injustice.*

This is an abomination that must be addressed.

In deciding this petition for rehearing Haeg asks this Court to carefully consider the following: that if Haeg is required to accept the life rending conviction & sentence he and the people following his case are being asked to accept this knowing it was obtained by the known, illegal, and unconstitutional acts of his own attorneys that he had hired and trusted to protect his family. Secondly, that the United States Constitution, which they were all raised to believe was inviolate, the rock upon which this country was based, and which protects citizens from exactly what happened to the Haeg family, is no longer working.

With the incomprehensible consequences this entails it is not believed this can be accepted and Haeg begs this Court not to ask it be accepted, which would be the result of another denial of petition 08-1108. If petition 08-1108 is not heard now this Court will no doubt hear of it again because to Haeg and Alaska's backbone - fishermen, oil workers, teachers, retired Troopers, resort and lodge operators, and numerous business owners - this is a complete breakdown in our justice system and thus cannot be allowed.

Until the following is justified Haeg will not stop until he obtains justice:

1. It's permissible for a State to falsify evidence locations – locations *specifically* used to justify the seizure of property, to justify the criminal case, and to justify the sentence – when the State knew the locations were false.

2. It's permissible for a State to seize and deprive property, used as the primary means to provide a livelihood, without a prompt postseizure hearing or notice of the opportunity for a prompt postseizure hearing.

3. It's permissible to use a plea agreement statement

against a defendant after the plea agreement failed.

4. It's permissible for a defendant's attorney to affirmatively lie to and mislead a defendant to allow the above to happen unchallenged.

RELIEF REQUESTED

In light of the fundamental breakdown in justice additionally evidenced in his arbitration petition Haeg respectfully asks this Court for rehearing of petition No. 08-1108; to consider Haeg's arbitration petition in deciding 08-1108; to order the State of Alaska and Cole to file responses so that this Court can realize the validity of Haeg's petitions; to grant petition No. 08-1108; and to order an investigation by the United States Department of Justice.

CERTIFICATE OF PETITIONER

I declare under penalty of perjury the forgoing petition is true and correct, is restricted to the grounds specified in Rule 44.2, is presented in good faith, is not for the purpose of delay, *and that I will never stop short of justice in order this may not happen again to my children or yours.* Executed on May 14, 2009.

David S. Haeg, Petitioner
P.O. Box 123
Soldotna, AK 99669
(907) 262-9249 and 262-8867 fax